



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,385	01/14/2004	Nathan T. Conk	2705.2.1.2	3607

28049 7590 03/27/2006

PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

DIXON, MERRICK L

ART UNIT	PAPER NUMBER
----------	--------------

1774

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

lu

Office Action Summary	Application No. 10/757,385	Applicant(s) CONK, NATHAN T.	
	Examiner Merrick Dixon	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 day MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

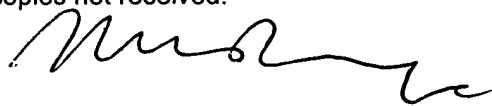
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4-12-04.

- MERRICK DIXON**
PRIMARY EXAMINER
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

15

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1774.

16

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 12-25 and 30,31 are are, drawn to a camouflage, classified in class 430, subclass 1..
- II. Claims 26-29 are, drawn to a pattern, classified in class 428, subclass 195.1

17

The inventions are distinct, each from the other because:

Inventions II and I are distinct and separate from each other because Invention I relates to a camouflage while Invention II teaches a pattern.

18

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 1774

19

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

20

A telephone call was made to applicant's attorney, Mr. R. Rapp on 12-21-05 to request an oral election to the above restriction requirement, but did not result in an election being made.

21

Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

personal fax number should be in draft-forms and will be treated as informal.

Same facsimiles will not be entered in the related applications unless

otherwise agreed and noted by the examiner.

The fax number for all other fascimile is 571-273-8300.

Art Unit: 1774

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

Status inquiries for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, flowing script.

Merrick Dixon

Primary Examiner

Group 1700